



City of Newton, Massachusetts
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Setti D. Warren
Mayor

Candace Havens
Director

CONSERVATION COMMISSION MINUTES

Date: January 30, 2014
Time: 7:30 p.m.
Place: City Hall, Room 209

With quorum present, the meeting opened at 7:30 p.m., Chairman Ira Wallach presiding.

Members Present: Ira Wallach, Susan Lunin, Judy Hepburn, Jane Sender, Norm Richardson, Dan Green (arrived 7:48),
Roger Matthews (arrived 7:58).

Members Absent: Rich Gallogly (Alternate)

Staff Present: Jennifer Steel

Members of the Public: See attached sign-in sheet

LEGAL CASES

1. **73 Beaconwood** – City received judgment upholding the Commission's Enforcement Order. Maura O'Keefe of Newton's Law Dept. presented the court's findings and discussed the Commission's next steps.
 - o Discussion: There are two separate tracks of appeal. (1) The Denial-OOC was appealed to DEP. That decision is on hold, pending the outcome of the second track. (2) The Denial-OOC requiring a floodplain delineation (under the City ordinance) was appealed to Superior Court. The judge upheld the Commission's Order, but a Motion for Reconsideration has been filed by the appellant. Maura O'Keefe will respond to the Motion for Reconsideration in one week. She anticipates conclusion in 3 months.

VIOLATIONS

1. **328 Fuller St.**
 - o Owner/Violator: Brea Burn Golf Course (Sean McLaughlin, General Manager). Representative: Sarah Stearns, Beals and Thomas and Lawrence Lee, Attorney.
 - o Violation: Unpermitted cutting of 19 large mature trees on a slope adjacent to a pond.
 - o Jurisdiction: Buffer zone.
 - o Discussion: Agent noted that she spoke with the site superintendent, issued a cease and desist, issued an Enforcement Order, and sent a letter requiring a restoration plan and the violator's presence at this meeting. Response to the requirements was swift and appropriate. Marc Welch (City Forester) issued a letter, a fine of \$6000, and requirements for inch-for-inch restoration per the City's Tree Ordinance. Sarah Stearns presented a proposed restoration plan of 45 mid-sized trees and 10 full-sized trees (155" proposed). The Commission asked for a calculation of inches cut (380" cut). The Commission discussed defining restoration based on what would have been permitted/permittable had the owner sought a permit, but decided to require the violator to submit a new proposal in advance of the 2/20/14 meeting showing: (1) full inch-for-inch replacement with a diversity of deciduous and evergreens (though not all in the cut area), (2) timing/sequencing plans, and (3) consideration given to water quality/stormwater improvements.
 - o Vote: Motion to ratify the Enforcement Order and continue the public meeting until 2/20 (moved: Norm Richardson, second: Jane Sender, vote: unanimous).

The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a special accommodation, please contact the Newton ADA Coordinator, Joel Reider, at least two days in advance of the meeting: jreider@newtonma.gov . or 617-796-1145. For Telecommunications Relay Service dial 711.

2. **1 Wells Ave.**

- Owner/Violator: National Development. Representative: Stormwater Compliance.
- Violation: Oily sheen in catch-basin and stream. Snow piled in wetland resource area. Gravel plowed into and across stream.
- Jurisdiction: Bank, LUW, Riverfront Area, BVW.
- Agent Update: Agent was out on an unrelated site visit and discovered the sheen, so she walked the site with the property manager, noted the various violations, issued a letter summarizing them and requiring compliance. The owner contacted Stormwater Compliance that day and began investigations. The owner addressed the snow storage issue with their plow contractor; snow will be stored up-gradient of catch-basins. The owner stated that stream restoration would occur as soon as the ground thawed, allowing for hand removal of the gravel in and beyond the stream. He also stated that posts would be placed to ensure that plowing would not reach the stream in the future. The Commission asked that the Agent contact the owner to request a written report of Stormwater Compliance's finding, a snow storage plan, and a bollard plan for the gravel parking area.

CERTIFICATES OF COMPLIANCE

1. **188-201 Needham St [DEP #239-678]** – Reconstruction of existing parking lot and sidewalks for ADA compliance (in flood zone), and mitigation for flood storage capacity.
 - Agent Report: Letter and as-built from Kelly Engineering states work is complete and compliant. Site visit with Frank Nichols indicated compliance.
 - Vote: Motion to issue a complete COC. (moved: Dan Green, second: Roger Matthews, vote: unanimous)
The Agent will follow up with the owner as regards the recent unpermitted removal of rails from the railway line.
2. **149 Pleasant St [DEP #239-636]** – Improvements to accessible play structure at Mason Rice Playground.
 - Agent Report: Note on plan and as-built from City Engineer states work is complete and compliant. Site visit with applicant indicated complete compliance.
 - Vote: Motion to issue a complete COC. (moved: Roger Matthews, second: Susan Lunin, vote: unanimous)

GENERAL BUSINESS, FOLLOW-UPS, ANNOUNCEMENTS

1. **Minutes of January 9th, 2014** to be considered for signature. **(P), (S)**
 - Vote: Motion to approve the minutes. (moved: Susan Lunin, second: Dan Green, vote: unanimous)
2. **Nonantum Rd – Newton Yacht Club** seeks permission to replace a line of white pines with smaller shrubs to alleviate maintenance issues and improve visual screening.
 - Discussion: Commission noted that the applicant should file a Notice of Intent (and consider something with more habitat value than arbor vitae, and be apprised that a permit from the City Tree Warden might be required.
3. **Land Maintenance Update**
 - Agent met with Land Management Subcommittee regarding funds available for annual maintenance, deferred maintenance, and Norumbega improvements.
 - The Annual Maintenance Plan was approved in general terms. Bid document went out today.
 - The Agent presented a proposed Deferred Maintenance Plan to the Zoning and Planning Committee on 1/27/14. She will refine that, send it to the Land Management Subcommittee for their review, then send it out for bids.
 - The Agent found paperwork describing the "Fireman's Fund" (\$25,000, the interest from which is to support the maintenance of conservation land in Newton). The Commission asked the Agent to locate that fund.
4. **"Route 9 and DCR Pipes"** – The Commission determined that it voted in the past to approve the plan for the stormwater improvements, thereby requesting that the Mayor request the BOA to appropriate the funds for the installation of the chambers and a Stormceptor®-type unit on the "DCR Pipe". No further action is required.

5. **Voting for Officers** – Commissioners opted to maintain the status quo.
 - o Chair and Kennard Park Trustee: Ira Wallach
 - o Vice-Chair and Envi. Sci. Program: Susan Lunin
 - o Clerk and Farm Committee and Nahanton Woods, Inc.: Judy Hepburn
 - o CPC: currently Dan Green (but Dan will ask Rich Gallogoly to take over in June)
 - o Newton Commonwealth Golf Foundation: Norm Richardson
6. **Enforcement** – Agent shared DEP’s guidance on Enforcement, clarifying that the only situation in which Commissions can fine for wetland violations, is under a municipal ordinance with approved regulations. DEP can fine under the Wetlands Protection Act. Commissions can create a fine structure under land use regulations for violations on Conservation land.
7. **MACC Annual Conference** – None of the Commissioners plan on attending on Saturday, March 1, 2014, Holy Cross.

OTHER BUSINESS THAT MAY LAWFULLY COME BEFORE THE COMMISSION

8. **2330 Washington St.** – The Agent reported that National Development dropped its appeal after minor plan changes were agreed to. The Agent has asked the applicant to send those plan changes for review and approval.
9. **Inquiry regarding draft “Waterway Regulations”** – The Commission recalled Mike Clark working on such a document, but the Commission did not approve or endorse such a document. The Agent will ask the Law Department for a copy.
10. **Web improvements** – Jane Sender and Dan Green will review proposed web improvements.

Adjourn: Motion to adjourn at 9:45. (moved: Susan Lunin, second: Dan Green, vote: unanimous.)